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THE INDIAN POLICY OF THE UNITED STATES.

WHEN Europeans began the colonization of the American Continent, simultaneously began a conflict between the white and the red man.

First, the *auri sacra fames* led the Spaniards to Central and South America. Whole districts of country were depopulated, and cities destroyed, in the unequal contest between educated and well-armed men and ignorant and comparatively defenseless savages. It was claimed by the States of Europe that America was without an owner, and that the title inured to the first discoverer—albeit there could not be discovery of a country occupied by a large number of human beings, though they might not be known to Europeans or have a place in their history. If other and satisfactory plea could be found for entry into the country, what could excuse the wanton destruction of the life and property of the inhabitants?

It has of late been common to arraign the United States as the chief of sinners in this regard, and, though their General Government has much to answer for and to be ashamed of, I hold that the charge is not just.

It was the common practice of Europeans, claiming a title by discovery, to take possession in the name of the potentate they represented. Their controversies were merely between themselves, as claimants, and the proof of ownership was as to whose flag was first raised over a particular district. The Government of the United States may, with satisfaction, point to the fact that they have presented the example of a distinct recognition of the possessory right of the Indians, and their rule has been only to extinguish that right by a formal treaty, containing valuable considerations for the relinquishment of possession. How well those treaties have been kept, in spirit and in letter, or, rather, how often the spirit has been violated in adhering to the letter, it is not my purpose on this occasion to discuss.

In passing, however, it may be well to remark that in the council between the United States Commissioners and the Indians, oftentimes more is spoken than written; that the Indians have remembered whatever was impressively spoken, and that the Government has necessarily executed only the terms of the treaty as it was written and ratified. From this would naturally flow controversies. It may be that the commissioners, to assure the Indians of the perpetuity of the possessions they would have in their new home, spoke more forcibly than they wrote, without intending to deceive, and from modesty forbore to write the figurative language adopted as best suited to the Indians. Such is believed to have been the case in the treaty with the Cherokees. The more it is insisted that the text of a treaty is the sole bond and guide, the more it devolves upon the executory party to fulfill its provisions according to their original meaning and intendment. In this connection, and it is believed with frequent misapprehension, has been uttered an arraignment of the General Government for having failed to fulfill its promises and perform its full duty as guardians to its Indian wards.

Would that it were possible to refute the accusation more satisfactorily than by producing evidence of hostility, marked by savage atrocity, on the part of marauding Indians against peaceful pioneer settlers. These may extenuate the retaliations of the frontiersmen, but can offer no excuse for violation, by the General Government, of plighted faith to an Indian tribe which had entered into treaty obligations. It is too late to plead that the Indian tribes were not independent nations, and could not be competent parties to a treaty with the United States. They were negotiated with in all due form, and the result recorded, signed, submitted by the United States President and ratified by the Senate, as would have been the case had the other party been one of the States of Europe. No justification for an abrogation of the treaty could be found in individual acts of aggression on either side, and could least plausibly be pleaded by the more intelligent party. Between independent nations a treaty might be swallowed up in war, and all its provisions lost, but such consequence could not properly follow the enforcement of obedience on a refractory ward.

Where treaties were fairly made and faithfully executed, but subsequently found to have been injudicious, so much so as to defeat the purpose for which they were made, then, and in that

case, their modification or substitution, if voluntarily and understandingly performed, would be both just and proper as between the contracting parties ; but the motive of the guardian must not be tainted by a selfish greed to get the land which the ward held by possessory right.

Many years since, the course of the United States toward the Indians was lucidly treated by the Hon. Lewis Cass, in an article published in *THE NORTH AMERICAN REVIEW*. His qualification for the discussion of the question was of the highest order. He had long lived in close contact with Indians, and for many years been officially connected with the tribes in the North-west. As my memory serves, for the article referred to has not been found, he showed, from the records, that the Government of the United States had been more just in its treatment of the Indians within its borders than any European nation which had held relations with them. If, in late years, acts of injustice and cruelty have stained the character of the Government, it is believed to have been the fruit, to no small extent, of the policy early adopted, and which has obstructed the desired progress of the Indians toward civilization and the useful arts.

In the brief notice which it is proposed to take of the subject, attempt will be made to show that failure has resulted rather from the general policy adopted than from the special means employed. As an ethical question, the right of the agricultural man to enter upon the hunting-fields of the Indians may be derived from the postulate that the Creator made the earth for man, and therefore it should be used in the manner which would best promote the welfare of mankind ; so, as few acres would suffice to support the agricultural man, whereas it would require as many square miles to support the hunting man, a just economy in the use of the legacy would require that the hunter should yield the needful portion to the agriculturist. If this theory, such as it is, be objected to, it at least may be claimed to be better foundation than a title acquired by massacre and conquest. It is, however, subject to the criticism that it tends toward modern agrarianism, and would be little acceptable if applied to the forests and preserves which exclude large tracts of territory from cultivation by civilized men in densely-populated countries.

The United States, recognizing a right of possession in the Indian tribes, early defined, by metes and boundaries, territories

sufficient for their hunter condition. Subsequently the United States acquired portions, or the whole, of that territory, for settlement by white men. This, as a rule, was done by a formal treaty, in which the consent of the Indians was given for considerations specifically set forth. In this regard the United States may challenge comparison with Great Britain, Spain, or France, all of these having exercised sovereignty, taken whatever they chose, and given for it to what extent they pleased.

Perhaps the Indians understood that masterful treatment best, for the result has been that each of those nations has lived more amicably with them than have the people of the United States; yet no other Government has contributed so largely to schools and farming instruction among the Indians, or contracted for and paid, in like manner, annuities to tribes who have been removed from the land of which they originally held possession. Such have been the means, and with all deference the view is presented that the result has been disappointing because the policy was inherently defective.

The first step toward this civilization of the hunter man must be to bring him to the agricultural condition. In order to do this it will be necessary that he should be in proximity to the agriculturist, and that hunting should cease to be his mode of obtaining subsistence. Taught by example and by want, he would learn, as the father of our race did, that he must eat his bread in the sweat of his brow. By acquiring a fixed habitation, no longer changing from summer to winter, to follow, as the season indicated, the precarious occupation of hunting and trapping, there would be gradual progress toward the habits of civilized man.

Domestic animals and implements, aiding in this labor, would add to his care and his comforts, giving him ability to support himself, as well as constraining him to remain at home. In that case, the highest ambition would not be to take game, fish, and fowl; the realization of need for other acquirements would open his mind to receive the teachings of the schools. To secure such conditions as these, it is assumed that the tribes should have been left segregated on land to which they were attached by tradition, and which was sufficiently fertile to compensate them for farm labor. Examples might be cited to prove the beneficial effect of conditions like those suggested, and perhaps a few of them may be hereafter presented. The policy of the Government has

been the reverse of this. It was to remove the Indians from the east to the west side of the Mississippi River, and to set apart a large territory to be occupied by Indians only.

By the rigid enforcement of the Indian Intercourse Act, and the isolated condition in which it was proposed to place the Indians, it was claimed that the corrupting influence of bad white men would be avoided. As far back as 1833, the commission, at the head of which was the venerable Governor Stokes of North Carolina, was sent to Fort Gibson, to invite a convention of the tribes, and they were advised to form a Congress of Deputies and enter into treaties of amity, by which it was hoped to destroy their ancient feuds, and to make of them a red brotherhood. This was found to be impracticable, as any one who had lived much among Indians would have foreseen ; but if it had been possible, these numerous tribes, with their strong instinct for war, consolidated, as they would have been, against the white men, would have sealed up their territory more closely than the Intercourse Act had ever done. It has been said that such a union was impracticable ; the traditional feuds between many of the tribes, the lofty scorn which the wild Indian felt and showed for the more civilized, rendered it less feasible to establish general friendship among the red men, than to bind the several tribes to peace and good offices toward the whites. A Missouri chief, in the council at Fort Gibson, scornfully referred to the more civilized Indians, dressed like white men, as looking like a band of "spotted horses."

The removal of Indians who had acquired more or less the habits of farmers, and whose country had become denuded of game, to a wide and fresh field, was to check the tide of improvement by giving opportunity to renew the hunting instinct of their race.

To say that intercourse with the white men would, in its first effect, be demoralizing to the Indians, is but to announce that history might be expected to repeat itself. It is through that crucible that the savage needs must pass to the civilized man. The Choctaws, who, in my recollection, possessed a large part of the State of Mississippi, at first so suffered from such intercourse ; their men and women wandered about in the white settlements, selling game, little articles of handiwork, picking cotton in the autumn and winter, and reaping the evil consequences which usually attend the association of untutored vagrants with cultivated

people ; but in the course of years this tribe became of necessity agricultural, built comfortable, though humble, residences, reared herds and green crops, had schoolhouses, made laws, and maintained a constabulary force which excluded the introduction of whisky into their borders, and prevented any of the tribe who left their territory from returning again to reside in it. As their skill in farming would have progressed, and hunting have ceased to be even a partial occupation, their desire for large territory would have diminished, and, for such compensation as approaching settlement would have justified, they might voluntarily have yielded such amount of land as, in their own view, was not immediately or prospectively required by their tribes.

The opposite policy was followed, their possessory right was extinguished by treaty, and they were given a larger amount of perhaps equally good land on the west side of the Mississippi River, on what is now known as the Indian Territory. The Indians had advanced so far in the useful arts, in general education, and were of such exemplary morality that they have maintained their condition as a civilized tribe. How much higher they would have grown if left in their former position is a speculative question on which persons may differ. To take another example, with a less-gratifying result, I will cite the case of the Abbenaki, or Oneida Indians, a small band living in Western New York, and inhabiting so narrowly restricted a territory that they had quite lost the arts of the hunter and become a farming people. They had houses, farms, mills, and were self-sustaining, but they were removed to Wisconsin. If the object was their benefit, the idea must have been that, as their skins were red, they ought to be hunters. When, however, they were pushed out into the wilderness, they were as helpless and unfit for their new condition as if they had been turned loose in the streets of London : for neither extreme in the condition of man were they prepared. The consequence was that many of the young men sought employment as boatmen or in other like occupations, and many of the girls went out as servants. It has been long since I personally knew anything of this band, but from recent information I fear their fate has been a hard one. Removed from the east to the west side of the Mississippi, the supposition was that they had passed beyond the danger of encroachment by white settlement. Much of the land was good, and many of the tribes went diligently to work and made

for themselves homes and farms adequate to their comfort and support. One of the principal inducements held out to them, for the exchange of their old homes for land in the West, was that they would there be free from intrusion, and full guarantees were given for the perpetuity of their possession of the land to which they were removed. But, beyond anticipation, the current of migration flowed westward. The productive farms on which the Indians were settled were tempting to the greed of the pioneers, and soon the demand arose that they should, like poor Jo, "move on." It is true that their new homes had not the tender associations of the old ones, but they were secured to them by the promises of the Government, and in them they had incorporated their labor. So far as I am informed, there was no case of forcible eviction, but much aggression, and influences brought to bear on the question of removal which it would not be pleasant to consider or possible exactly to expose. Where were they to go? To the arid region of the Far West, where drought and insects would often render their labor wholly unproductive? Surely the equitable or humane conclusion would be that it were better the white man, with his larger means and higher intelligence, should have been assigned to the region where artificial appliances were necessary to secure the irrigation which would render the land productive, and science would be available to combat the ravages of destructive insects.

Why should not the white settlement go beyond that of the Indians, not only for the considerations just stated, but also to present a barrier between the semi-civilized Indian and the nomadic bands inhabiting the region beyond them? This is but another phase of the policy previously presented, of separating, instead of consolidating, the Indian tribes, and leading them toward the goal of civilization by propinquity with the white man. Some utilitarian may answer that the higher productiveness of the land, if surrendered to the white men, would suffice to support the Indians in districts where the climate and soil would not enable them to support themselves. Justice and every higher demand of philanthropy rejects a plan which would doom the race to sloth and beggary, steadily to sink lower and lower in morals and manhood, until they reached inevitable extinction. Some of the nations, particularly those called the Southern Indians, from greater cultivation and self-reliance, have not been the subjects of removal from their homes north-west of Arkansas;

but an attempt has been made, which I can but believe would be very detrimental to them, if not in the end destructive of their possessory right to the land they received in exchange for their former homes in Georgia, Tennessee, Alabama, and Mississippi. It was to divide the land in severalty, which, involving the power of individual alienation, would make the territory an El Dorado for the sharpers, and render the Indian Intercourse Act "a dead letter." To stimulate individual exertion for the improvement of a separate property in home, the land might be subdivided, with tenure descending in the direct line, but without the power to alienate, so that the land should remain forever the property of the tribal nation.

Wherever the General Government yields to the pressure of people who demand that the land of the Indians should be opened for settlement, by removing them from a place which they had so far reduced to cultivation as to make themselves self-sustaining, the mask of a purpose thereby to benefit the Indians should be pulled off for very shame at its hypocrisy. The reports of commissioners and agents, glossed over as they have been, sufficiently show the cruel injustice and hardship inflicted by the policy of repeated removals.

If to this wrong be added the reproach of violated pledges, which gave assurance of permanent abode, one can hardly be called reckless who urges a change of policy and a new line of conduct hereafter. The avowed object being, as guardian, to protect the Indians and advance them to a higher civilization, the means to be employed to that end must vary with the character and condition of the tribe or nation, as no universal rule would be applicable to all.

The first step, as it has been previously stated, must be to make them agriculturists, to give them a fixed habitation, to preserve order, and to prevent conflict with their white neighbors. The more advanced among them, as stated in the case of the Choctaws, will be able to maintain their own constabulary force, to legislate, and execute laws for themselves. For those less advanced, order might be preserved, vagrancy checked, and intruders repelled, by a system of officers selected from the tribe, and appointed and paid by the General Government, who should wear some insignia of authority to command the respect, as well of their own people as of white men who should attempt to intrude upon their territory.

General Cass, referred to above, at the council of Butte des Mors, held with Indians as wild as any we have, appointed certain chiefs for such purposes as above indicated, and his rare sagacity was exhibited by the fact that they long retained their authority and exercised it with most beneficial effect. To show to what extent judicious and humane treatment may check hostility and secure confidence, I will cite the example of the Winnebagoes. In 1828-9 they were a powerful, warlike people, possessing the country along the Wisconsin and Fox rivers, and were more than semi-hostile to the whites. They had summer villages where they grew corn and some other vegetables, which at the approach of winter they cached (buried) and departed for their hunting-ground, returning in the spring to exhume their hidden crop for summer subsistence.

Major, subsequently General, D. E. Twiggs, was sent with a battalion to establish a military post at the portage of the Wisconsin and Fox rivers. The Indians were then so hostile that they would hold no intercourse with the troops, but would ride up on their ponies, with blackened faces, their sign of hostility, and from a distance look at the soldiers, who were building a stockade for shelter and defense. Twiggs, possessing a rare amount of practical sense, and knowledge of human character, gave no indication to the Indians of any anxiety at their proceedings, but with all practicable dispatch hastened his preparations for defense. As time wore on, the Indians gradually acquired confidence; they came to the fort to trade and to get provisions, an annuity having been granted to them; John H. Kinsey, who had much knowledge of Indians, and whose moral character was above reproach, was appointed agent, and at appointed times the Indians were assembled, and to each was paid the amount severally due. All was fairly and regularly done, and there was neither dissatisfaction nor complaint then heard.

The Indian Intercourse Act was rigidly enforced: not a licensed trader was permitted to introduce whisky or high wines for traffic with the Indians. For instance, a fur-trader came up the Fox River to cross the portage and ascend the Wisconsin River. In his boat he had concealed several barrels of whisky. In obedience to orders I inspected his boat, found the barrels of whisky, and had the heads knocked out and the contents emptied into the river. The officiating soldiers saw with surprise such waste of an article which, in their barracks, was valued at a dollar per gill.

When, in the summer of 1832, the garrison at Fort Winnebago was ordered to Rock Island to join in the first Black Hawk campaign, the Winnebagoes were not only peaceable, but so friendly that a single man could ride with safety through their country and get food for himself and horse at any of their villages. Their area of cultivation had increased, the profits of hunting and trapping had diminished, and they were steadily progressing toward the condition which affords the best prospect of civilization—transition from the hunting to the agricultural state.

On the Pacific slope the Indians usually called Pueblos are very different in their instincts, and perhaps in their origin, from those east of the mountains. Under the kind ministration of the Catholic priests, they were collected in groups and taught to cultivate the land. Peaceably inclined, and not indisposed to labor, the problem for solution with them was comparatively easy. If the preservation and training of Indians to such usefulness and happiness as accords with their endowment be the end in view, success would seem certainly attainable.

So far as massacres of the Indians by the white men have occurred, it is worthy of notice that these have not been by the soldiers of the regular army, with, so far as I can recall, one shameful exception. It is to be remembered that Indian outrages committed upon the families of frontiersmen have usually been the provoking cause, and would naturally constitute a reason, for the distinction pointed out above. This distinction calls to notice the anomalous organization, especially as regards the wild tribes, in placing the conduct of Indian affairs under the Interior Department, instead of the War Department, on which it devolves to keep troops in the Indian territory, for the suppression of disorder. Thus it results that, during a state of peace, the Interior Department supplies the Indians with clothing, arms, and ammunition, and, when they take the war-path, the War Department sends troops against them: so the Government supports the campaign by supplying both the belligerents.

The diversity of characteristics and endowments, as well as the inequality of acquirement, would render it impracticable to apply a uniform rule of conduct toward the various Indian tribes. How far the character of the Indians has been modified by intercourse with white men, it will be left for others to inquire. Our earliest history shows that the Indians were confiding and friendly-dis-

posed. One trait on which, as a foundation, much might be predicated, was fidelity in the performance of contracts ; *e.g.*, the fur-traders generally advanced, at the beginning of the trapping season, an outfit, to be paid for by the product of the winter's hunt, and the general testimony of the traders was that, in the event of sufficient success, full payment was always made ; and that, while an unpaid balance remained, the Indian would not engage his peltries to another trader. This sense of adherence to plighted faith might well produce the aversion of the wild Indian to the man who spoke with "a forked tongue." Having different standards of morality, the conscience of one race would severely condemn acts which the other would approve. To this difference of standard may be referred much of the Indians' conduct which is most abhorrent to the white man. Truth lies between the extreme of the romancer, who ascribes to the Indian all the graces and cardinal virtues, and that of the outraged pioneer, who denies to the Indian all claim to humanity.

When avowed hostility exists between the two, the judgment of the pioneer has much to sustain it ; but while there has been amity and mutual good offices, the fidelity of the Indian has stood the hardest tests—such as the tribal desire to take vengeance on the innocent white man for some outrage another white man had committed.

Without elucidation, it will be seen that a common standard of virtue and vice must be recognized as the means to preserve a mutual good understanding between the races. In order to this, there must be like circumstances and mode of living. The policy herein suggested is not now susceptible of the full application which might have been made at an earlier time, but it is not too late to stop the wheel of the Juggernaut.

Though knight-errantry was crucified by the ridicule of Cervantes, the English-speaking people have kept some relics sacred—the love of fair play, to take the part of the weak, to throw their shields over the defenseless. An opportunity is offered to the Government and people of the United States to repair past injustice, and, as far as possible, to fulfill their assumed obligations as guardians to their Indian wards.

JEFFERSON DAVIS.